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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,023	03/27/2001	Michael D. Zoeckler	7137 CIP1	2875

7590 05/14/2003

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EXAMINER

HARMON, CHRISTOPHER R

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 05/14/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

61

Office Action Summary

Application No.

09/818,023

Applicant(s)

ZOECKLER, MICHAEL D.

Examiner

Christopher R Harmon

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 16-32 and 38-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 33-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. This application contains claims 16-32 and 38-41 drawn to an invention nonelected without traverse in Paper No. 5. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 7, 11, and 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al. (US 1,600,396) in view of Seufert (US 4,733,916). Campbell et al. disclose a method of reinforcing paperboard made of paper from rolls 1, 2, and 3. Reinforcing tapes 8 are applied. The blanks are scored by scoring rolls (not shown).

Campbell does not directly disclose scoring fold lines with a section of the transverse fold line wider than another section, however Seufert teaches a method of making a reinforced paperboard container with a reinforcing material 3 with a width less than that of paperboard 1. The reinforcing material 3 is glued to the paperboard 1 and

then the blank is scored with fold lines 12, 13. Fold line 13 has a wider section 17 with a transition zone in between; see figures 1 and 3.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the teachings of Seufert in the invention of Campbell in order to compensate stresses in the laminate materials when folded into the final product and thereby maintaining the bond between the laminates.

Regarding the impression cylinders of claims 34-37, Campbell discloses impression cylinders 6 and scoring and cutting rolls not shown (column 2, lines 12-14) one of which performs score 12 (figure 2).

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al. (US 1,600,396) in view of Seufert (US 4,733,916) as applied to claims 1-5, 7, 11, and 33-37 above, and further in view of Seufert (US 4,064,206).

The modified invention to Campbell et al. does not disclose the use of a platen die, however in Seufert '916 the process of scoring bend lines 13 is performed simultaneously with the impression of wider section 17 as incorporated by DE 2541324 (see column 8, lines 22-41). The US equivalent to DE 2541324 is US 4,064,206. Seufert describes in '206 the utilization of platen die 20 for forming the bend lines 13; see figure 1. Rotary dies and platen dies are well known substitutes for performing scoring procedures and because Seufert '916 incorporates the description of '206 it would have been obvious to one of ordinary skill in the art to use the platen die structure of Seufert in the invention of Campbell as a substitute for the rotary die.

5. Claims 8-10 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell in view of Seufert as applied to claims 1-5, 7, 11, and 33-37 above, and further in view of Haddock (US 3,735,674).

The modified invention to Campbell does not directly disclose a counter plate with ~~grooves~~^{grooves}, however this feature is well known in the scoring/folding art as is shown by Haddock; groove 16 in counterplate 14 (see figure 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a counterplate with a groove as is recognized by Haddock in the modified invention to Campbell in order to create fold lines in the material.

Response to Arguments

6. Applicant's arguments filed 3/31/03 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Campbell et al. recognize the difficulties of maintaining bonds between reinforcing laminates and their

Art Unit: 3721

paperboard counterparts due to stresses applied during folding along score lines upon erecting the finished receptacles; see page 1, lines 67-80.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Furthermore, Seufert discloses more than merely producing receptacles with windows; see column 6, lines 37-42. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

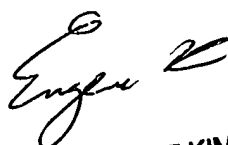
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Harmon whose telephone number is 703-308-8643. The examiner can normally be reached on Monday-Thursday from 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703-308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703- 872-9303 for After Final communications.

Art Unit: 3721

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ch
May 12, 2003


EUGENE KIM
PRIMARY EXAMINER